

NOAA Factsheet: Alsea Valley Decision



In the Sept. 12 judgement in *Alsea Valley Alliance v. Evans*, Judge Michael R. Hogan of the U.S. District Court in Eugene, Ore., found that NOAA fisheries followed the Endangered Species Act in finding that an “evolutionarily significant unit” (ESU) of salmon is the same thing as a “distinct population segment.” However, the court found that in making an Endangered Species Act (ESA) determination, NOAA fisheries could not split an ESU into two components—hatchery and wild—and list only one component. On these grounds, the court set aside NOAA fisheries’ 1998 ESA listing of Oregon coast coho salmon.

In response to the *Alsea* decision, the Administration will focus its energy and resources on rebuilding salmon runs rather than appeal the court’s decision. As a part of this effort, NOAA fisheries will institute a comprehensive review of its salmon hatchery policies under the Endangered Species Act, while maintaining current protections for listed salmon species.

Administration Actions

- NOAA fisheries will immediately begin a public rulemaking process, including public hearings, to determine what standards should be applied to salmon populations that include fish reared in hatcheries.
- When completed, these standards will be applied promptly to all similarly listed salmon and steelhead populations.
- In the meantime, it is vital that the region’s efforts to protect and rebuild these populations, which are beginning to show signs of success, be continued to assure a full recovery of healthy salmon and steelhead runs. NOAA fisheries will increase its support for local planning efforts to rebuild salmon runs, and will provide interim planning targets for the areas with listed salmon and steelhead populations.
- Except for the Oregon coast coho, no other salmon or steelhead populations will be delisted at this time. The current protections of the Endangered Species Act will continue in force.

Salmon Protections

The *Alsea* decision delists Oregon coast coho salmon and it is unclear whether that

November 2001

population will again be determined to merit ESA protection. However, NOAA fisheries will seek the cooperation of the federal land management agencies and the State of Oregon to assure that a high level of protection continues for this population while its status is being reviewed.

The court’s order affects only Oregon coast coho. No other salmon or steelhead populations will be delisted at this time. The current protections of the Endangered Species Act will continue.

In addition to the Oregon coast coho salmon, a total of 23 out of the 25 listed salmon and steelhead on the West Coast are potentially affected by the decision and the upcoming status reviews.

Hatchery Policy

In past salmon listings, NOAA fisheries has based its determination on whether an ESU can sustain itself in its ecosystem with natural reproduction. This approach is consistent with listing determinations for other species conducted by both NOAA fisheries and the U.S. Fish and Wildlife Service.

In the wake of the *Alsea* decision, NOAA fisheries will conduct a review to examine how the ESA should be applied to those salmon populations that include fish reared in hatcheries. It will also address the extent to which hatchery populations can be used to accelerate recovery, and long-term standards for hatchery operation to assure that hatchery practices will not undermine a rebuilding or recovered population.

The Alsea Decision and ESA

The court’s decision is narrowly focused on the specific facts of this case and does not change the purposes or requirements of the ESA. In fact, the court relied heavily on ESA language in making its decision on the Oregon coast coho salmon listing determination.

The court focused carefully on the ESA’s definition of “species” and what sort of a biological unit NOAA fisheries may list. The ESA defines “species” to include “any subspecies . . . or any distinct population segment of any species.” While noting that NOAA fisheries interpreted ESA language correctly in determining an ESU listing and could determine which populations belonged in the ESU, the court found that once a decision was made to include hatchery fish in the ESU as it was here, all populations—hatchery and natural alike—must be listed or not listed together.

The ESA is about conserving valuable natural resources for generations to come. The Administration is committed to enforcing the ESA, and specifically to finding a lasting solution to the challenge of maintaining healthy salmon stocks, including wild salmon. ☺

(For more information on the Alsea Valley Decision, see <http://www.nwr.noaa.gov>, or contact Janet Sears, NOAA Public Affairs, 206-526-6172).

NOAA’s Mission

NOAA is dedicated to enhancing economic security and national safety through the prediction and research of weather and climate-related events and providing environmental stewardship of our nation’s coastal and marine resources. To learn more about NOAA, please visit <http://www.noaa.gov>